IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. ROBERT LEE WILLIAMS, a/k/a "Pimpin' Rob," Defendant.	No. CR 05-4123-MWB PRELIMINARY AND FINAL INSTRUCTIONS TO THE JURY

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PRELIMINARY INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, I am giving you these Preliminary Instructions to help you better understand the trial and your role in it and to instruct you on the law that you must apply in this case. Consider these Preliminary Instructions, together with all written and oral Instructions given to you during or at the end of the trial, and apply them as a whole to the facts of the case. In considering these Preliminary Instructions, the order in which they are given is not important.

As I explained during jury selection, a Grand Jury charges defendant Robert Lee Williams, who is allegedly also known as "Pimpin' Rob," with the following six separate offenses: In Count 1, conspiracy to distribute 50 grams or more of crack cocaine; in Count 2, possession with intent to distribute 23.74 grams of crack cocaine; in Count 3, distribution of .44 grams of crack cocaine; in Count 4, distribution of 1.1 grams of crack cocaine; in Count 5, possession of a firearm in furtherance of a drug-trafficking crime; and in Count 6, being a felon in possession of a firearm.

As I also explained during jury selection, an Indictment is simply an accusation. It is not evidence of anything. The defendant has pled not guilty to each of the crimes charged against him; therefore, he is presumed to be innocent of each offense unless and until the prosecution proves his guilt on that offense beyond a reasonable doubt.

Your duty is to decide from the evidence whether the defendant is not guilty or guilty of the crimes charged against him. You will find the facts from the

evidence. You are entitled to consider that evidence in light of your own observations and experiences. You may use reason and common sense to draw conclusions from facts that have been established by the evidence. You will then apply the law, which I will give you in my Instructions, to the facts to reach your verdict. You are the sole judges of the facts; but you must follow the law as stated in my Instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, based solely on the evidence, your common sense, and the law as I give it to you. Do not take anything I may say or do during the trial as indicating what I think of the evidence or what I think your verdict should be. Similarly, do not conclude from any ruling or other comment I may make that I have any opinions on how you should decide the case.

Please remember that only defendant Robert Lee Williams, not anyone else, is on trial here. Also, remember that the defendant is on trial *only* for the offenses charged against him, not for anything else.

You must return a separate, unanimous verdict on each offense charged against the defendant.

PRELIMINARY INSTRUCTION NO. 2 - PRELIMINARY MATTERS

Before I turn to specific Preliminary Instructions on the offenses charged in this case, I must explain some preliminary matters.

"Elements"

The offenses charged in this case each consist of "elements," which the prosecution must prove beyond a reasonable doubt against the defendant in order to convict him of that offense. I will summarize in the following Preliminary Instructions the elements of the offenses with which the defendant is charged.

Nicknames

In the Indictment, the Grand Jury alleges that defendant Robert Lee Williams sometimes goes by the nickname "Pimpin' Rob." The identity of a defendant as the person who committed a crime is an element of every crime; therefore, the government must prove beyond a reasonable doubt not only that a crime alleged was actually committed, but also that the defendant charged was the person who committed it. Defendant Robert Lee Williams does not have to prove that he did not commit a charged offense, that someone else committed the offense, or that he is not the person identified as "Pimpin' Rob." Therefore, if the facts and circumstances that will be introduced in evidence leave you with a reasonable doubt as to whether or not Robert Lee Williams is the person who committed a crime charged against him, then you must find him not guilty of that offense.

Timing

The Indictment alleges that each offense charged was committed "between about" two dates, or "on or about" a certain date. The prosecution does not have to prove with certainty the exact date of an offense charged. It is sufficient if the evidence establishes that an offense occurred within a reasonable time of the date alleged for that offense in the Indictment.

Controlled substances

In all of my Instructions, when I refer to a "controlled substance," I mean any drug or narcotic the manufacture, possession, possession with intent to distribute, or distribution of which is prohibited or regulated by federal law. The drug-trafficking offenses charged in this case allegedly involved one such controlled substance, cocaine base, which is commonly called "crack cocaine." I will refer to this controlled substance as "crack cocaine" throughout my Instructions.

Quantity of controlled substances

The drug-trafficking offenses charged in Counts 1 through 4 in this case allegedly involved specific quantities of crack cocaine. The prosecution does not have to prove that these offenses involved the amount or quantity of crack cocaine alleged in the Indictment. However, *if* you find the defendant guilty of one or more of the drug-trafficking offenses charged in this case, *then* for each such offense on which you have found the defendant guilty, you must determine the following matters *beyond a reasonable doubt*: (1) whether that offense actually involved crack cocaine, as alleged; and if so, (2) the *total quantity*, in grams, of the crack cocaine involved in that offense for which the defendant can be held responsible. In so

doing, you may consider all of the evidence in the case that may aid in the determination of these issues.

* * *

I will now give you more specific Preliminary Instructions about the offenses charged in the Indictment. However, please remember that these Preliminary Instructions on the charged offenses provide only a preliminary outline of the requirements for proof of these offenses. At the end of the trial, I will give you further written Final Instructions on these matters. Because the Final Instructions are more detailed, you should rely on those Final Instructions, rather than these Preliminary Instructions, where there is a difference.

PRELIMINARY INSTRUCTION NO. 3 - COUNT 1: CONSPIRACY

Count 1 of the Indictment charges that, between about 2003 through August 17, 2005, the defendant knowingly and unlawfully conspired with other persons, known and unknown to the Grand Jury, to distribute 50 grams or more of crack cocaine. Mr. Williams denies that he committed this "conspiracy" offense.

For you to find the defendant guilty of this "conspiracy" offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

One, between about 2003 through August 17, 2005, two or more persons reached an agreement or came to an understanding to distribute crack cocaine;

Two, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect; and

Three, at the time that the defendant joined in the agreement or understanding, the defendant knew the purpose of the agreement or understanding.

If the prosecution does not prove *all* of the essential elements of this offense beyond a reasonable doubt, then you must find the defendant not guilty of the "conspiracy" offense charged in Count 1 of the Indictment.

In addition, if you find the defendant guilty of this "conspiracy" offense, then you must also determine beyond a reasonable doubt the quantity of crack cocaine actually involved in the conspiracy for which the defendant can be held responsible,

as determination of drug quantity was explained briefly in Preliminary Instruction No. 2.

Finally, if you find beyond a reasonable doubt that the conspiracy charged in Count 1 existed, and that the defendant was one of its members, then you may consider acts knowingly done and statements knowingly made by the defendant's co-conspirators during the existence of the conspiracy and in furtherance of it as evidence pertaining to the defendant, even though those acts were done or those statements were made in the defendant's absence and without his knowledge. This includes acts done or statements made before the defendant joined the conspiracy. On the other hand, an act or statement by someone other than the defendant that was not made during and in furtherance of the conspiracy cannot be attributed to the defendant in this way.

PRELIMINARY INSTRUCTION NO. 4 - COUNT 2: POSSESSION WITH INTENT TO DISTRIBUTE

Count 2 of the Indictment charges that, on or about August 17, 2005, the defendant knowingly and intentionally possessed with intent to distribute 23.74 grams of crack cocaine. Mr. Williams denies that he committed this "possession with intent to distribute" offense.

For you to find the defendant guilty of this "possession with intent to distribute" offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

One, on or about August 17, 2005, the defendant was in possession of crack cocaine;

Two, the defendant knew that he was, or intended to be, in possession of a controlled substance; and

Three, the defendant intended to distribute some or all of the controlled substance to another person.

If the prosecution does not prove *all* of the essential elements of this offense beyond a reasonable doubt, then you must find the defendant not guilty of the "possession with intent to distribute" offense charged in Count 2 of the Indictment.

In addition, if you find the defendant guilty of this "possession with intent to distribute" offense, then you must also determine beyond a reasonable doubt the quantity of crack cocaine actually involved in the offense for which the defendant

can be held responsible, as determination of drug quantity was explained briefly in Preliminary Instruction No. 2.

PRELIMINARY INSTRUCTION NO. 5 - COUNTS 3 & 4: DISTRIBUTION

Counts 3 and 4 of the Indictment charge separate "distribution" offenses. More specifically, Count 3 charges that, on or about August 16, 2005, the defendant knowingly and intentionally distributed .44 grams of crack cocaine. Count 4 charges that, on or about August 17, 2005, the defendant knowingly and intentionally distributed 1.1 grams of crack cocaine. Mr. Williams denies each of these charges.

For you to find the defendant guilty of a particular "distribution" offense, the prosecution must prove beyond a reasonable doubt *both* of the following essential elements:

One, on or about the date alleged, the defendant intentionally distributed crack cocaine to another; and

Two, at the time of the distribution, the defendant knew that what he was distributing was a controlled substance.

If the prosecution does not prove *both* these essential elements beyond a reasonable doubt as to the particular "distribution" offense in question, then you must find the defendant not guilty of that "distribution" offense.

In addition, if you find the defendant guilty of a particular "distribution" offense, then you must also determine beyond a reasonable doubt the quantity of crack cocaine actually involved in that offense for which the defendant can be held

responsible, as determination of drug quantity was explained briefly in Preliminary Instruction No. 2.

PRELIMINARY INSTRUCTION NO. 6 - COUNT 5: POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG-TRAFFICKING CRIME

Count 5 of the Indictment charges that, on or about August 17, 2005, the defendant possessed a firearm, that is, a Smith and Wesson semi-automatic hand gun, serial # TEW9861, in furtherance of either or both of the drug-trafficking crimes charged in Count 1 ("conspiracy") and Count 2 ("possession with intent to distribute"). Mr. Williams denies that he committed this offense.

For you to find the defendant guilty of this offense, the government must prove *both* of the following essential elements beyond a reasonable doubt:

One, on or about August 17, 2005, the defendant committed one or more of the drug-trafficking offenses charged in Count 1 and Count 2 of the Indictment; and

Two, the defendant knowingly possessed the firearm alleged in furtherance of the drug-trafficking offense or offenses that you found he committed;

If the prosecution does not prove *both* of the essential elements of this offense beyond a reasonable doubt, then you must find the defendant not guilty of the offense of "possession of a firearm in furtherance of a drug-trafficking crime," as charged in Count 5 of the Indictment.

PRELIMINARY INSTRUCTION NO. 7 - COUNT 6: FELON IN POSSESSION OF A FIREARM

Count 6 of the Indictment charges that, on or about August 17, 2005, the defendant, having previously been convicted of a felony drug offense, knowingly possessed, in and affecting commerce, one firearm, that is, a Smith and Wesson semi-automatic hand gun, serial # TEW9861. Mr. Williams denies that he committed this offense.

For you to find the defendant guilty of this offense, the prosecution must prove *all* of the following essential elements beyond a reasonable doubt:

One, the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year;

Two, the defendant thereafter knowingly possessed a firearm; and

Three, the firearm was transported across a state line at some time during or before the defendant possessed it.

If the prosecution does not prove *all* of the essential elements of this offense beyond a reasonable doubt, then you must find the defendant not guilty of the "felon in possession of a firearm" offense charged in Count 6 of the Indictment.

PRELIMINARY INSTRUCTION NO. 8 - PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

Robert Lee Williams is presumed innocent of each of the charges against him and, therefore, not guilty of those offenses. This presumption of innocence requires you to put aside all suspicion that might arise from the arrest or charge of the defendant or the fact that he is here in court. The presumption of innocence remains with the defendant throughout the trial. That presumption alone is sufficient to find him not guilty. The presumption of innocence may be overcome as to a particular charge against the defendant only if the prosecution proves, beyond a reasonable doubt, *all* of the elements of that offense against him.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant to prove his innocence. Therefore, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution. Similarly, if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict.

Unless the prosecution proves beyond a reasonable doubt that the defendant has committed each and every element of a charged offense, you must find him not guilty of that offense.

PRELIMINARY INSTRUCTION NO. 9 - REASONABLE DOUBT

I have previously instructed you that the prosecution must prove a charged offense "beyond a reasonable doubt" for you to find the defendant guilty of that charged offense. A reasonable doubt may arise from the evidence produced by either the prosecution or the defendant, keeping in mind that the defendant never has the burden or duty of calling any witnesses or producing any evidence. It may also arise from the prosecution's lack of evidence. A reasonable doubt is a doubt based upon reason and common sense. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

PRELIMINARY INSTRUCTION NO. 10 - OUTLINE OF TRIAL

The trial will proceed as follows:

After these preliminary instructions, the prosecutor may make an opening statement. Next, the lawyer for the defendant may, but does not have to, make an opening statement. An opening statement is not evidence. It is simply a summary of what the lawyer expects the evidence to be.

The prosecution will then present its evidence and call witnesses, and the lawyer for the defendant may, but has no obligation to, cross-examine. Following the prosecution's case, the defendant may, but does not have to, present evidence and call witnesses. If the defendant calls witnesses, the prosecutor may cross-examine them.

After the evidence is concluded, I will give you most of the Final Instructions. The lawyers will then make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. I will then give you the remaining Final Instructions on deliberations, and you will retire to deliberate on your verdict.

PRELIMINARY INSTRUCTION NO. 11 - DEFINITION OF EVIDENCE

Your verdict must be based only on the evidence presented in this case and these and any other Instructions that I may give you during the trial. Evidence is:

1. Testimony.

2. Exhibits that I admit into evidence.

3. Stipulations, which are agreements between the parties.

Evidence may be "direct" or "circumstantial." The law makes no distinction between the weight to be given to direct and circumstantial evidence. The weight to be given any evidence is for you to decide.

A particular item of evidence is sometimes admitted only for a limited purpose, and not for any other purpose. I will tell you if that happens, and instruct you on the purposes for which the item can and cannot be used.

The fact that an exhibit may be shown to you does not mean that you must rely on it more than you rely on other evidence.

The following are not evidence:

1. Statements, arguments, questions, and comments by the lawyers.

2. Objections and rulings on objections.

3. Testimony I tell you to disregard.

4. Anything you saw or heard about this case outside the courtroom.

The weight of the evidence is not determined merely by the number of witnesses testifying as to the existence or non-existence of any fact. Also, the weight of the evidence is not determined merely by the number or volume of

documents or exhibits. The weight of the evidence depends upon its quality, which means how convincing it is, and not merely upon its quantity. For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict his or her testimony. The quality and weight of the evidence are for you to decide.

PRELIMINARY INSTRUCTION NO. 12 - RECORDED CONVERSATIONS

As part of the evidence in this case, you may hear one or more recordings. The conversations on such recordings were legally recorded, and you may consider the recordings just like any other evidence. The recordings may be accompanied by a typed transcript. You are permitted to view a transcript for the purposes of helping you to follow the conversation as you hear a recording and helping you to keep track of the speakers.

A transcript, if present, may undertake to identify the speakers engaged in the conversation. However, the identity of the speakers as set out in a transcript is not evidence; rather, it is merely the opinion of the person who transcribed the recording. Whether or not a transcript correctly or incorrectly identifies the speakers is entirely for you to decide based upon what you hear about the preparation of the transcript in relation to what you hear on the recording.

Also, a recording itself is the primary evidence of its own contents. Whether a transcript correctly or incorrectly reflects a conversation is entirely for you to decide based on what you hear about the preparation of that transcript in relation to what you hear on the recording. If you decide that a transcript of a conversation is in any respect incorrect or unreliable, then you should disregard it to that extent. Differences in meaning between what you hear in a recording of a conversation and read in a transcript, if available, may be caused by such things as the inflection in

a speaker's voice. You should, therefore, rely on what you hear, rather than what you read, when there is a difference.

Similarly, if you find that any portion of a recording is inaudible or partially inaudible, because of such things as actual gaps in the recording or other noise on the recording, or if you hear something different from what is indicated in the transcript in a portion of the recording that is inaudible or partially inaudible, then you must disregard the transcript to the extent that the transcript attempts to indicate what the persons on the recording said during the inaudible or partially audible portions. You may also consider whether inaudible or partially audible portions of the recording indicate that the recording has been altered or damaged, such that it is unreliable, in whole or in part. Again, the recording itself, not any transcript, is the primary evidence of the contents of the recording.

PRELIMINARY INSTRUCTION NO. 13 - CREDIBILITY OF WITNESSES

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the witness's drug or alcohol use or addiction, if any, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe. In deciding whether or not to believe a witness, keep in mind that people sometimes see or hear things differently and sometimes forget things. You need to consider, therefore, whether a contradiction results from an innocent misrecollection or sincere lapse of memory, or instead from an intentional falsehood or pretended lapse of memory.

If the defendant testifies, you should judge his testimony in the same manner in which you judge the testimony of any other witness.

Ordinarily, witnesses may only testify to factual matters within their personal knowledge. However, you may hear evidence from persons described as experts. Persons may become qualified as experts in some field by knowledge, skill, training, education, or experience. Such experts may state their opinions on matters

in that field and may also state the reasons for their opinions. You should consider expert testimony just like any other testimony. You may believe all of what an expert says, only part of it, or none of it, considering the expert's qualifications, the soundness of the reasons given for the opinion, the acceptability of the methods used, any reason the expert may be biased, and all of the other evidence in the case.

Just because a witness works in law enforcement or is employed by the government does not mean you should give more weight or credence to such a witness's testimony than you give to any other witness's testimony.

PRELIMINARY INSTRUCTION NO. 14 - BENCH CONFERENCES AND RECESSES

During the trial it may be necessary for me to talk with the lawyers out of your hearing, either by having a bench conference here while you are present in the courtroom, or by calling a recess. Please be patient, because while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, to avoid confusion and error, and to save your valuable time. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

PRELIMINARY INSTRUCTION NO. 15 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon. If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself. Also, the lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible. Do not hold it against a lawyer or the party the lawyer represents because the lawyer has made objections.

PRELIMINARY INSTRUCTION NO. 16 - NOTE-TAKING

If you want to take notes during the trial, you may, but be sure that your note-taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember it is your own individual responsibility to listen carefully to the evidence.

Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes.

If you take notes, do not discuss them with anyone before you begin your deliberations. At the end of each day, please leave your notes on your chair. At the end of the trial, you may take your notes out of the notebook and keep them, or leave them, and we will destroy them. No one will read the notes, either during or after the trial.

You will notice that we have an official court reporter making a record of the trial. However, we will not have typewritten transcripts of this record available for your use in reaching your verdict.

PRELIMINARY INSTRUCTION NO. 17 - CONDUCT OF THE JURY DURING TRIAL

To insure fairness, you as jurors must obey the following rules:

First, do not talk among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide on your verdict.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended and you have been discharged as jurors.

Third, when you are outside the courtroom do not let anyone tell you anything about the case, or about anyone involved with it until the trial has ended and your verdict has been accepted by me. If someone should try to talk to you about the case during the trial, please report it to me.

Fourth, during the trial you should not talk with or speak to any of the parties, lawyers, or witnesses involved in this case—you should not even pass the time of day with any of them. It is important that you not only do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even if it is simply to pass the time of day—an unwarranted and unnecessary suspicion about your fairness might be aroused. If any lawyer, party, or witness does not speak to you when you pass in the hall, ride the elevator or the like, it is because they are not supposed to talk or visit with you.

Fifth, do not read any news stories or articles about the case, or about anyone involved with it, or listen to any radio or television reports about the case or about anyone involved with it. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I can assure you, however, that by the time you have heard the evidence in this case you will know more about the matter than anyone will learn through the news media.

Sixth, do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation *about this case* on your own. You must decide this case based on the evidence presented in court.

Seventh, do not make up your mind during the trial about what the verdict should be. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Eighth, if at anytime during the trial you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer, who will deliver it to me. I want you to be comfortable, so please do not hesitate to inform me of any problem.

DATED this 26th day of June, 2006.

Mark W. Bennett

MARK W. BENNETT
CHIEF JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

FINAL INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, the written Instructions I gave you at the beginning of the trial and the oral Instructions I gave you during the trial remain in effect. I now give you some additional Final Instructions.

The Final Instructions I am about to give you, as well as the Preliminary Instructions given to you at the beginning of the trial, are in writing and will be available to you in the jury room. *All* Instructions, whenever given and whether in writing or not, must be followed. This is true even though some of the Preliminary Instructions I gave you at the beginning of the trial are not repeated here.

I will now give you more detailed Instructions on the requirements for proof of the offenses charged in this case.

FINAL INSTRUCTION NO. 2 - "INTENT" AND "KNOWLEDGE"

The elements of the charged offenses require proof of what the defendant "intended" or "knew." Where what a defendant "intended" or "knew" is an element of an offense, the defendant's "intent" and "knowledge" must be proved beyond a reasonable doubt. "Intent" and "knowledge" are mental states. It is seldom, if ever, possible to determine directly the operations of the human mind. However, "intent" and "knowledge" may be proved like anything else, from reasonable inferences and deductions drawn from the facts proved by the evidence. Therefore, you may consider any statements made or acts done by the defendant and all of the facts and circumstances in evidence to aid you in the determination of his "knowledge" or "intent."

An act was done "knowingly" if the defendant was aware of the act and did not act through ignorance, mistake, or accident. The prosecution is not required to prove that the defendant knew that his acts or omissions were unlawful. An act was done "intentionally" if it was done voluntarily, without coercion, and not because of ignorance, mistake, accident, or inadvertence.

FINAL INSTRUCTION NO. 3 - "POSSESSION," "DISTRIBUTION," AND "DELIVERY"

The offenses charged in this case involve "possession" of crack cocaine or a firearm and "distribution" or "intent to distribute" crack cocaine. "Distribution" of crack cocaine, in turn, involves "delivery." The following definitions of these terms apply in these instructions:

The law recognizes several kinds of "possession." A person who knowingly has direct physical control over an item, at a given time, is then in "actual possession" of it. A person who, although not in actual possession, has both the power and the intention at a given time to exercise control over an item, either directly or through another person or persons, is then in "constructive possession" of it. If one person alone has actual or constructive possession of an item, possession is "sole." If two or more persons share actual or constructive possession of an item, possession is "joint." Whenever the word "possession" is used in these instructions, it includes "actual" as well as "constructive" possession and also "sole" as well as "joint" possession.

In addition, mere presence where an item was found or mere physical proximity to the item is insufficient to establish "possession" of that item. Knowledge of the presence of the item, at the same time one has control over the item or the place in which it was found, is required. Thus, in order to establish a person's "possession" of an item, the prosecution must establish that, at the same time, (a) the person knew of the presence of the item; (b) the person intended to

exercise control over the item or place in which it was found; (c) the person had the power to exercise control over the item or place in which it was found; and (d) the person knew that he had the power to exercise control over the item or place in which it was found.

The term "distribute" means to deliver a controlled substance to the actual or constructive possession of another person. The term "deliver" means the actual, constructive, or attempted transfer of a controlled substance to the actual or constructive possession of another person. It is not necessary that money or anything of value change hands. The law prohibits "distribution" of a controlled substance, "possession with intent to distribute" a controlled substance, and an agreement to "distribute" or to "possess with intent to distribute" a controlled substance; the prosecution does not have to prove that there was or was intended to be a "sale" of a controlled substance to prove a conspiracy to distribute that controlled substance, possession with intent to distribute that controlled substance, or distribution of that controlled substance.

FINAL INSTRUCTION NO. 4 - COUNT 1: CONSPIRACY

Count 1 of the Indictment charges that, between about 2003 through August 17, 2005, the defendant knowingly and unlawfully conspired with other persons, known and unknown to the Grand Jury, to distribute 50 grams or more of crack cocaine. Mr. Williams denies that he committed this "conspiracy" offense.

For you to find the defendant guilty of this "conspiracy" offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

One, between about 2003 through August 17, 2005, two or more persons reached an agreement or came to an understanding to distribute crack cocaine.

> The prosecution must prove that the defendant reached an agreement or understanding with at least one other person. The other person or persons do not have to be defendants, or named in the Indictment, or otherwise charged with a crime. There is no requirement that any other conspirators be named as long as you find beyond a reasonable doubt that there was at least one other co-conspirator besides the defendant.
>
> The "agreement or understanding" need not be an express or formal agreement or be in writing or cover all the details of how it is to be carried out. Nor is it necessary that the members have directly stated between themselves the details or purpose of the scheme. In determining whether the alleged agreement existed, you may consider the actions and statements of all of the alleged participants, whether they are charged as

> defendants or not. The agreement may be inferred from all of the circumstances and the conduct of the alleged participants.
>
> The "conspiracy" charge against the defendant alleges that the conspirators agreed to distribute crack cocaine as the "objective" of the conspiracy. To assist you in determining whether there was an agreement to distribute crack cocaine as alleged, you should consider the elements of a "distribution" offense. The elements of a "distribution" offense are explained in Final Jury Instruction No. 6.
>
> Also keep in mind that the prosecution must prove that there was an *agreement* to distribute crack cocaine to establish the guilt of the defendant on the conspiracy charge. The prosecution is *not* required to prove that any "distribution" offense *was actually committed*. In other words, the question is whether the defendant *agreed* to distribute crack cocaine, not whether the defendant or someone else *actually* distributed crack cocaine.
>
> If there was no agreement, there was no conspiracy. Similarly, if you find that there was an agreement, but you find that the defendant did not join in that agreement, or did not know the purpose of the agreement, then you cannot find that defendant guilty of the "conspiracy" charge.

Two, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time that it was first reached or at some later time while it was still in effect.

> You should understand that merely being present at the scene of an event, or merely acting in the same way as others, or merely associating with others does not prove that a person has joined in an agreement or understanding.

> A person who has no knowledge of a conspiracy, but who happens to act in a way that advances some purpose of one, does not thereby become a member. Similarly, mere knowledge of the existence of a conspiracy, or mere knowledge that a controlled substance is being distributed or possessed with intent to distribute, is not enough to prove that the defendant joined in the conspiracy; rather, the prosecution must establish some degree of knowing involvement and cooperation.
>
> On the other hand, a person may join in an agreement or understanding, as required by this element, without knowing all the details of the agreement or understanding, and without knowing who all the other members are. Further, it is not necessary that a person agree to play any particular part in carrying out the agreement or understanding. A person may become a member of a conspiracy even if that person agrees to play only a minor part in the conspiracy, as long as that person has an understanding of the unlawful nature of the plan and voluntarily and intentionally joins in it.
>
> In deciding whether the defendant voluntarily and intentionally joined in the agreement, you must consider only evidence of the defendant's own actions and statements. You may not consider actions and pretrial statements of others, except to the extent that pretrial statements of others describe something that the defendant said or did.

Three, at the time that the defendant joined in the agreement or understanding, he knew the purpose of the agreement or understanding.

> The defendant must know of the existence and purpose of the conspiracy. Without such knowledge, the defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy.

For you to find the defendant guilty of the "conspiracy" charge in Count 1 of the Indictment, the prosecution must prove beyond a reasonable doubt *all* of these essential elements. Otherwise, you must find the defendant not guilty of the "conspiracy" charge in Count 1.

In addition, if you find the defendant guilty of the "conspiracy" charge in Count 1, then you must also determine beyond a reasonable doubt whether the conspiracy actually involved crack cocaine *and* the quantity of the crack cocaine actually involved in the conspiracy for which the defendant can be held responsible, as determination of drug quantity is explained in Final Jury Instruction No. 7.

If you find beyond a reasonable doubt that the conspiracy charged in Count 1 existed, and that the defendant was one of its members, then you may consider acts knowingly done and statements knowingly made by the defendant's co-conspirators during the existence of the conspiracy and in furtherance of it as evidence pertaining to the defendant, even though those acts were done or those statements were made in the defendant's absence and without his knowledge. This includes acts done or statements made before the defendant joined the conspiracy. On the other hand, an act or statement by someone other than the defendant that was not made during and in furtherance of the conspiracy cannot be attributed to the defendant in this way.

FINAL INSTRUCTION NO. 5 - COUNT 2: POSSESSION WITH INTENT TO DISTRIBUTE

Count 2 of the Indictment charges that, on or about August 17, 2005, the defendant knowingly and intentionally possessed with intent to distribute 23.74 grams of crack cocaine. Mr. Williams denies that he committed this "possession with intent to distribute" offense.

For you to find the defendant guilty of this "possession with intent to distribute" offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

One, on or about August 17, 2005, the defendant was in possession of crack cocaine.

> "Possession" was defined for you in Final Jury Instruction No. 3. You must ascertain whether or not any substance in the defendant's possession was, in fact, crack cocaine.

Two, the defendant knew that he was, or intended to be, in possession of a controlled substance.

> "Knowledge" and "intent" were defined for you in Final Jury Instruction No. 2. Additionally, the defendant need not have known what the controlled substance was, if the defendant knew that he had possession of some controlled substance.

Three, the defendant intended to distribute some or all of the controlled substance to another person.

> Again, "intent" was defined for you in Final Jury Instruction No. 2. The term "distribute" was defined for you in Final Jury Instruction No. 3. Evidence of an intent to distribute a controlled substance may include drug purity, and the presence of firearms, cash, packaging material, or other distribution paraphernalia. Evidence that the defendant possessed a large quantity of crack cocaine is also evidence from which you may infer an intent to distribute.

For you to find the defendant guilty of this "possession with intent to distribute" offense, as charged in Count 2 of the Indictment, the prosecution must prove beyond a reasonable doubt *all* of these essential elements. Otherwise, you must find the defendant not guilty of the "possession with intent to distribute" offense charged in Count 2.

In addition, if you find the defendant guilty of the "possession with intent to distribute" offense charged in Count 2, then you must also determine beyond a reasonable doubt whether the offense actually involved crack cocaine, *and* if so, the quantity of the crack cocaine actually involved in the "possession with intent to distribute" offense for which the defendant can be held responsible, as determination of drug quantity is explained in Final Jury Instruction No. 7.

FINAL INSTRUCTION NO. 6 - COUNTS 3 & 4: DISTRIBUTION

Counts 3 and 4 of the Indictment charge separate "distribution" offenses. More specifically, Count 3 charges that, on or about August 16, 2005, the defendant knowingly and intentionally distributed .44 grams of crack cocaine. Count 4 charges that, on or about August 17, 2005, the defendant knowingly and intentionally distributed 1.1 grams of crack cocaine. Mr. Williams denies each of these charges.

For you to find the defendant guilty of a particular "distribution" offense, the prosecution must prove beyond a reasonable doubt *both* of the following essential elements:

One, on or about the date alleged, the defendant intentionally distributed crack cocaine to another.

> "Distribution" was defined for you in Final Jury Instruction No. 3. You must ascertain whether or not the substance in question was, in fact, crack cocaine. In so doing, you may consider all of the evidence in the case that may aid in the determination of that issue.

Two, at the time of the distribution, the defendant knew that what he was distributing was a controlled substance.

> "Knowledge" was defined for you in Final Jury Instruction No. 2. Additionally, the defendant need not have known what the controlled substance was, if the

> defendant knew that he had possession of some controlled substance.

For you to find the defendant guilty of a particular "distribution" offense, as charged in either Count 3 or Count 4 of the Indictment, the prosecution must prove beyond a reasonable doubt *all* of these essential elements as to that "distribution" Count. Otherwise, you must find the defendant not guilty of the "distribution" offense in question.

In addition, if you find the defendant guilty of a "distribution" offense, as charged in either Count 3 or Count 4 of the Indictment, then you must also determine beyond a reasonable doubt whether that "distribution" offense actually involved crack cocaine, *and* if so, the quantity of the crack cocaine actually involved in that "distribution" offense for which the defendant can be held responsible, as determination of drug quantity is explained in Final Jury Instruction No. 7.

FINAL INSTRUCTION NO. 7 - QUANTITY OF CRACK COCAINE

The drug-trafficking offenses charged in Counts 1 through 4 of the Indictment in this case allegedly involved specific quantities of crack cocaine. The prosecution does not have to prove that these offenses involved the amount or quantity of crack cocaine alleged in the Indictment. However, *if* you find the defendant guilty of one or more of the drug-trafficking offenses charged in this case, *then* for each such offense on which you have found the defendant guilty, you must determine the following matters *beyond a reasonable doubt*: (1) whether that offense actually involved crack cocaine, as alleged; and if so, (2) the *total quantity*, in grams, of the crack cocaine involved in that offense for which the defendant can be held responsible. In so doing, you may consider all of the evidence in the case that may aid in the determination of these issues.

Responsibility

A defendant guilty of conspiracy to distribute crack cocaine, as charged in Count 1, is responsible for the quantities of crack cocaine that he actually distributed or agreed to distribute. Such a defendant is also responsible for those quantities of crack cocaine that fellow conspirators distributed or agreed to distribute, if you find that the defendant could have reasonably foreseen, at the time that he joined the conspiracy or while the conspiracy lasted, that those prohibited acts were a necessary or natural consequence of the conspiracy.

A defendant guilty of possession with intent to distribute, as charged in Count 2, is responsible for the quantity of crack cocaine that he possessed with intent to distribute, as "possession" is explained in Final Jury Instruction No. 3.

A defendant guilty of distribution, as charged in either Count 3 or Count 4, is responsible for the quantity of crack cocaine that he distributed on the date in question in the Count in question, as "distribution" is explained in Final Jury Instruction No. 3.

Determination of quantity and verdict

You must determine the *total quantity* of crack cocaine for which the defendant guilty of a particular Count can be held responsible. You must make that determination in terms of *grams* of crack cocaine. You must then indicate that quantity in the Verdict Form. You may find more or less than the charged quantity of crack cocaine on any Count, but you must find that the quantity that you indicate for each Count has been proved beyond a reasonable doubt.

In making your determination of quantity as required, it may be helpful to remember that one pound is approximately equal to 453.6 grams, and that one ounce is approximately equal to 28.34 grams.

FINAL INSTRUCTION NO. 8 - COUNT 5: POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG-TRAFFICKING CRIME

Count 5 of the Indictment charges that, on or about August 17, 2005, the defendant possessed a firearm, that is, a Smith and Wesson semi-automatic hand gun, serial # TEW9861, in furtherance of either or both of the drug-trafficking crimes charged in Count 1 ("conspiracy") and Count 2 ("possession with intent to distribute"). Mr. Williams denies that he committed this offense.

For you to find the defendant guilty of this offense, the government must prove *both* of the following essential elements beyond a reasonable doubt:

One, on or about August 17, 2005, the defendant committed one or more of the drug-trafficking offenses charged in Count 1 and Count 2 of the Indictment.

> The prosecution does not have to prove that the defendant committed both of the drug-trafficking offenses charged in Counts 1 and 2. Rather, it would be sufficient if the prosecution proves beyond a reasonable doubt that the defendant committed one of these offenses. On the other hand, if you found the defendant not guilty of both of the offenses charged in Counts 1 and 2, then you cannot find him guilty of the offense charged in Count 5.

Two, the defendant knowingly possessed the firearm alleged in furtherance of the drug-trafficking offense or offenses that you found he committed.

> The Indictment charges that the defendant possessed in furtherance of the drug-trafficking offenses a Smith and Wesson semi-automatic hand gun, serial # TEW9861. "Knowledge" was defined for you in Final Jury

> Instruction No. 2. "Possession" was explained for you in Final Instruction No. 3. "Furtherance" should be given its plain meaning, which is "the act of furthering, advancing, or helping forward." Thus, to prove that the defendant "possessed a firearm in furtherance of a drug-trafficking crime," it is not enough for the prosecution to prove that the defendant simultaneously possessed drugs and a firearm. Instead, the prosecution must prove a connection between the defendant's possession of the firearm and the underlying drug-trafficking offense.
>
> Therefore, in order to prove this element, the prosecution must prove beyond a reasonable doubt that the defendant possessed the firearm alleged and that the firearm had some purpose or effect with respect to the drug-trafficking crime in question. The presence and involvement of the firearm cannot just be the result of accident or coincidence. The firearm must have facilitated the drug-trafficking offense. For example, the handy availability of a firearm near drugs, drug paraphernalia, or drug money may support an inference that the defendant possessed the firearm at the ready to protect the drugs, the drug money, or the defendant during a drug transaction, such that the firearm facilitated the drug-trafficking crime.

For you to find the defendant guilty of the offense of "possession of a firearm in furtherance of a drug-trafficking crime," as charged in Count 5 of the Indictment, the prosecution must prove both of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find the defendant not guilty of the offense charged in Count 5 of the Indictment.

FINAL INSTRUCTION NO. 9 - COUNT 6: FELON IN POSSESSION OF A FIREARM

Count 6 of the Indictment charges that, on or about August 17, 2005, the defendant, having previously been convicted of a felony drug offense, knowingly possessed, in and affecting commerce, one firearm, that is, a Smith and Wesson semi-automatic hand gun, serial # TEW9861. Mr. Williams denies that he committed this offense.

For you to find the defendant guilty of this offense, the prosecution must prove *all* of the following essential elements beyond a reasonable doubt:

One, the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year.

> The prosecution and the defendant have stipulated that, prior to August 17, 2005, defendant Williams had been convicted of a crime punishable by imprisonment for more than one year under the laws of the State of Iowa. Therefore, you must consider this element to be proved.

Two, the defendant thereafter knowingly possessed a firearm.

> The Indictment charges that the "firearm" in question was a Smith and Wesson semi-automatic hand gun, serial # TEW9861. You must determine whether the defendant "knowingly possessed" the Smith and Wesson hand gun alleged in the Indictment. "Knowledge" was defined for you in Final Jury Instruction No. 2. "Possession" was explained for you in Final Instruction No. 3.

Three, the firearm was transported across a state line at some time during or before the defendant possessed it.

> The prosecution and the defendant have stipulated that the firearm in question was transported across a state line at some time before the defendant possessed it, if he did indeed possess the firearm. Therefore, you must consider this element to be proved.

For you to find the defendant guilty of the "felon in possession of a firearm" offense as charged in Count 6 of the Indictment, the prosecution must prove *all* of the essential elements of this offense beyond a reasonable doubt against him. Otherwise, you must find him not guilty of the offense charged in Count 6 of the Indictment.

FINAL INSTRUCTION NO. 10 - IMPEACHMENT

In Preliminary Instruction No. 13, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be "impeached."

A witness may be discredited or impeached by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness's present testimony. If earlier statements of a witness were admitted into evidence, they were not admitted to prove that the contents of those statements were true. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and therefore whether they affect the credibility of that witness.

You have heard evidence that witnesses James King, Patrick Harrell, Marty Landfair, Keri Goodwin, Anthony Grenier, Kim Lutt, and Pearl Freemont have each been convicted of a crime. You may use that evidence only to help you decide whether or not to believe these witnesses and how much weight to give their testimony.

You should treat the testimony of certain witnesses with greater caution and care than that of other witnesses:

1. You have heard evidence that Patrick Harrell, and Pearl Freemont testified pursuant to plea agreements and hope to receive reductions

in their sentences in return for their cooperation with the government in this case. If the prosecutor handling such a witness's case believes the witness has provided "substantial assistance," the prosecutor can file a motion to reduce the witness's sentence. The judge has no power to reduce a sentence for such a witness for substantial assistance unless the U.S. Attorney files a motion requesting such a reduction. If the motion for reduction of sentence for substantial assistance is filed by the U.S. Attorney, then it is up to the judge to decide whether to reduce the sentence of that witness at all, and if so, how much to reduce it. You may give the testimony of such witnesses such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by the witness's hope of receiving a reduction in sentence is for you to decide.

2. You have also heard testimony from James King, Joseph Dangel, Elvester Sowell, Patrick Harrell, Marty Landfair, Keri Goodwin, Anthony Grenier, Kim Lutt, and Pearl Freemont that they participated in the crime charged against the defendant. Their testimony was received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not the testimony of such a witness may be influenced by his or her desire to please the government or to strike a good bargain with the government about his or her own situation is for you to determine.

3. You have also heard evidence that James King, Joseph Dangel, Elvester Sowell, Marty Landfair, Keri Goodwin, and Anthony Grenier each

had an arrangement with the government under which he or she received a benefit for providing information to the government. The testimony of these witnesses was received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by receiving a benefit is for you to decide.

4. You have also heard evidence that James King, Joseph Dangel, Elvester Sowell, Patrick Harrell, Marty Landfair, Keri Goodwin, Anthony Grenier, Kim Lutt, and Pearl Freemont used or were addicted to addictive drugs during the period of time about which they testified. You should consider whether the testimony of such a witness might have been affected by his or her drug use at the time of the events about which the witness testified.

* * *

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness's testimony whatever weight you think it deserves.

FINAL INSTRUCTION NO. 11 - PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

Robert Lee Williams is presumed innocent of each of the charges against him and, therefore, not guilty of those offenses. This presumption of innocence requires you to put aside all suspicion that might arise from the arrest or charge of the defendant or the fact that he is here in court. The presumption of innocence remains with the defendant throughout the trial. That presumption alone is sufficient to find him not guilty. The presumption of innocence may be overcome as to a particular charge against the defendant only if the prosecution proves, beyond a reasonable doubt, *all* of the elements of that offense against him.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant to prove his innocence. Therefore, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution. Similarly, you must not consider the fact that the defendant did not testify in any way, or even discuss it, in arriving at your verdict.

Unless the prosecution proves beyond a reasonable doubt that the defendant has committed each and every element of a charged offense, you must find him not guilty of that offense.

FINAL INSTRUCTION NO. 12 - REASONABLE DOUBT

I have previously instructed you that the prosecution must prove a charged offense "beyond a reasonable doubt" for you to find the defendant guilty of that charged offense. A reasonable doubt may arise from the evidence produced by either the prosecution or the defendant, keeping in mind that the defendant never has the burden or duty of calling any witnesses or producing any evidence. It may also arise from the prosecution's lack of evidence. A reasonable doubt is a doubt based upon reason and common sense. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

FINAL INSTRUCTION NO. 13 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. *Your verdict on each charge must be unanimous*. It is your duty to consult with one another and to deliberate with a view to reaching agreement if you can do so without violence to your individual judgment. Of course, you must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself; but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations you should not hesitate to re-examine your own views, and to change your opinion if you are convinced that it is wrong. To bring twelve minds to an unanimous result, you must examine the questions submitted to you openly and frankly, with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish the defendant's guilt beyond a reasonable doubt on an offense charged against him, then the defendant should have your vote for a not guilty verdict on that offense. If all of you reach the same conclusion, then the verdict of the jury must be not guilty for the defendant on that offense. Of course, the opposite also applies. If, in your individual judgment, the evidence establishes the defendant's guilt beyond a reasonable doubt on an offense, then your vote should be for a verdict of guilty against the defendant on that charge, and if all of you reach that conclusion, then the

verdict of the jury must be guilty for the defendant on that offense. As I instructed you earlier, the burden is upon the prosecution to prove beyond a reasonable doubt every essential element of an offense charged against the defendant, or you cannot find the defendant guilty of that offense.

Remember, also, that the question before you can never be whether the government wins or loses the case. The government, as well as society, always wins, regardless of whether your verdict is not guilty or guilty, when justice is done.

Finally, remember that you are not partisans; you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. However, I suggest that you carefully consider all of the evidence bearing upon the questions before you. You may take all the time that you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial, or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you. If you should fail to agree on a verdict, the case is left open and must be disposed of at some later time.

FINAL INSTRUCTION NO. 14 - DUTY DURING DELIBERATIONS

There are certain rules you must follow while conducting your deliberations and returning your verdict:

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, if the defendant is guilty, the sentence to be imposed is my responsibility. You may not consider punishment of Robert Lee Williams in any way in deciding whether the prosecution has proved its case against him beyond a reasonable doubt.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible, either in writing or orally in open court. *Remember that you should not tell anyone—including me—how your votes stand numerically*.

Fourth, your verdict must be based solely on the evidence and on the law in these instructions. Therefore, you must return a separate, unanimous verdict on each charge against the defendant. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, in your consideration of whether the defendant is not guilty or guilty of an offense charged, you must not consider the defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the

defendant on any charge unless you would return the same verdict for that charge without regard to the defendant's race, color, religious beliefs, national origin, or sex. To emphasize the importance of this consideration, the verdict form contains a certification statement. Each of you should carefully read the statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects the manner in which each of you reached your decision.

Finally, I am giving you the verdict form. A verdict form is simply the written notice of the decision that you reach in this case. You will take the verdict form to the jury room. When you have reached a unanimous verdict, your foreperson must complete one copy of the verdict form and all of you must sign that copy to record your individual agreement with the verdict and to show that it is unanimous. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict. When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

DATED this 28th day of June, 2006.

Mark W. Bennett

MARK W. BENNETT
CHIEF JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. ROBERT LEE WILLIAMS, a/k/a "Pimpin' Rob," Defendant.	No. CR 05-4123-MWB VERDICT FORM

As to defendant Robert Lee Williams, we, the Jury, unanimously find as follows:

COUNT 1: CONSPIRACY		VERDICT
Step 1: Verdict	On the "conspiracy" charge in Count 1, as explained in Final Jury Instruction No. 4, please mark your verdict. (*If you found the defendant "not guilty," do not consider the question in Step 2. Instead, go on to consider your verdict on Count 2. However, if you found the defendant "guilty" of Count 1, please answer the question in Step 2 of this section of the Verdict Form.*)	____ Not Guilty ____ Guilty
Step 2: Quantity of crack cocaine	*If you found the defendant "guilty" of the "conspiracy" charge in Count 1,* please indicate the quantity of crack cocaine involved in the offense for which the defendant can be held responsible. (*Quantity of crack cocaine is explained in Final Jury Instruction No. 7.*)	
	_____ grams crack cocaine	

COUNT 2: POSSESSION WITH INTENT TO DISTRIBUTE		VERDICT
Step 1: Verdict	On the "possession with intent to distribute" charge in Count 2, as explained in Final Jury Instruction No. 5, please mark your verdict. (*If you found the defendant "not guilty," do not consider the question in Step 2. Instead, go on to consider your verdict on Count 3. However, if you found the defendant "guilty" of Count 2, please answer the question in Step 2 of this section of the Verdict Form*.)	____ Not Guilty ____ Guilty
Step 2: Quantity of crack cocaine	*If you found the defendant "guilty" of the "possession with intent to distribute" charge in Count 2,* please indicate the quantity of crack cocaine involved in this offense for which the defendant can be held responsible. (*Quantity of crack cocaine is explained in Final Jury Instruction No. 7*.)	
	_____ grams of crack cocaine	
COUNT 3: DISTRIBUTION		VERDICT
Step 1: Verdict	On the charge of "distribution" of crack cocaine on or about August 16, 2005, as charged in Count 3 and explained in Final Jury Instruction No. 6, please mark your verdict. (*If you found the defendant "not guilty," do not consider the question in Step 2. Instead, go on to consider your verdict on Count 4. However, if you found the defendant "guilty" of Count 3, please answer the question in Step 2 of this section of the Verdict Form*.)	____ Not Guilty ____ Guilty
Step 2: Quantity of crack cocaine	*If you found the defendant "guilty" of the "distribution" offense charged in Count 3,* please indicate the quantity of crack cocaine involved in this offense for which the defendant can be held responsible. (*Quantity of crack cocaine is explained in Final Jury Instruction No. 7*.)	
	_____ grams of crack cocaine	

<table>
<tr><td colspan="2">COUNT 4: DISTRIBUTION</td><td>VERDICT</td></tr>
<tr><td>Step 1:
Verdict</td><td colspan="2">On the charge of “distribution” of crack cocaine on or about August 17, 2005, as charged in Count 4 and explained in Final Jury Instruction No. 6, please mark your verdict. (If you found the defendant “not guilty,” do not consider the question in Step 2. Instead, go on to consider your verdict on Count 5. However, if you found the defendant “guilty” of Count 4, please answer the question in Step 2 of this section of the Verdict Form.)</td><td>____ Not Guilty

____ Guilty</td></tr>
<tr><td rowspan="2">Step 2:
Quantity of crack cocaine</td><td colspan="2">If you found the defendant “guilty” of the “distribution” offense charged in Count 4, please indicate the quantity of crack cocaine involved in this offense for which the defendant can be held responsible. (Quantity of crack cocaine is explained in Final Jury Instruction No. 7.)</td></tr>
<tr><td colspan="2">_____ grams of crack cocaine</td></tr>
<tr><td colspan="2">COUNT 5: POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG-TRAFFICKING CRIME</td><td>VERDICT</td></tr>
<tr><td>Step 1:
Verdict</td><td colspan="2">On the charge of “possession of a firearm in furtherance of a drug-trafficking crime,” as charged in Count 5 and explained in Final Jury Instruction No. 8, please mark your verdict. (Remember that you cannot find the defendant guilty of this offense unless you have found the defendant guilty of either or both of the drug-trafficking offenses charged in Counts 1 and 2. If you found the defendant “not guilty,” do not consider the question in Step 2. Instead, go on to consider your verdict on Count 6. However, if you found the defendant “guilty” of Count 5, please answer the question in Step 2 of this section of the Verdict Form.)</td><td>____ Not Guilty

____ Guilty</td></tr>
<tr><td rowspan="2">Step 2:
Offense(s)</td><td colspan="2">If you found the defendant “guilty” of the “possession of a firearm in furtherance of a drug-trafficking crime,” as charged in Count 5, please indicate the drug-trafficking offense or offenses in furtherance of which the defendant possessed a firearm.</td></tr>
<tr><td>_____ The “conspiracy” offense charged in Count 1</td><td>_____ The “possession with intent to distribute” offense charged in Count 2</td></tr>
</table>

COUNT 6: FELON IN POSSESSION OF A FIREARM		VERDICT
Step 1: Verdict	On the charge of being a "felon in possession of a firearm," as charged in Count 6 and explained in Final Jury Instruction No. 9, please mark your verdict. (*After entering your verdict on this charge, please read the Certification below, sign the Verdict Form if you agree with the verdict on each count and that the Certification is true and correct, then notify the Court Security Officer that you have reached a verdict*.)	____ Not Guilty ____ Guilty

CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the offenses regardless of the race, color, religious beliefs, national origin, or sex of the defendant.

_____
Date

_____ _____
Foreperson Juror

_____ _____
Juror Juror

_____ _____
Juror Juror

_____ _____
Juror Juror

_____	_____
Juror	Juror
_____	_____
Juror	Juror